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COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Australia, Austria, Belgium*, Chile, Costa Rica, Cyprus, Czech Republic*, Denmark*, France, Germany, Hungary*, Ireland*, Japan, Netherlands, Norway*, Poland, Portugal*, Russian Federation, Sweden* and Switzerland*: draft resolution

Right to freedom of opinion and expression

The Commission Human Rights,

Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression,

Mindful of the International Covenant on Civil and Political Rights, which reaffirms, in article 19, the right of everyone to hold opinions without interference, as well as the right to freedom of expression, and states that the exercise of the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions, but that these shall be only such as are provided by law and are necessary for respect of the rights or reputations of others, or for the protection of national security or of public order (ordre public), or of public health and morals,

Mindful also that the International Covenant on Civil and Political Rights states that any propaganda for war or any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling its resolution 1993/45 of 5 March 1993, in which it decided to appoint a special rapporteur on the promotion and protection of the right to freedom of opinion and expression,

Also recalling its resolutions 1984/26 of 12 March 1984, 1985/17 of 11 March 1985, 1986/46 of 12 March 1986, 1987/32 of 10 March 1987, 1988/37 and 1988/39 of 8 March 1988, 1989/31 of 6 March 1989, 1989/56 of 7 March 1989, 1990/32 of 2 March 1990, 1991/32 of 5 March 1991 and 1992/22 of 28 February 1992,

Taking note of resolution 1983/32 of 6 September 1983 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note also of the reports and the final conclusions and recommendations on the right to freedom of opinion and expression submitted to the Sub-Commission at its forty-second, forty-third and forty-fourth sessions by the Special Rapporteurs, Mr. Louis Joinet and Mr. Danilo Türk (E/CN.4/Sub.2/1990/11, E/CN.4/Sub.2/1991/9 and E/CN.4/Sub.2/1992/9 and Add.1),

Considering that the effective promotion of the human rights of persons who exercise the right to freedom of opinion and expression is of fundamental importance to the safeguarding of human dignity,

Noting the comment in the final report of the Special Rapporteurs that the right to freedom of opinion and expression is interrelated with and enhances the exercise of all other human rights,

Deeply concerned by numerous reports of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, against professionals in the field of information, including journalists, editors, writers and authors, publishers and printers,

1. Welcomes the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/1994/33), and welcomes his observations on the terms of reference that constitute the legal framework within which he will carry out his mandate and his proposed methods of work;

2. Notes that the Special Rapporteur recognizes the need to cooperate with other special rapporteurs, special representatives, independent experts, working groups and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue his efforts in this regard;

3. Welcomes the observations contained in the report of the Special Rapporteur on the methods of work, in particular on the means of responding effectively to information which comes before him;

4. Requests the Secretary-General to provide, within existing overall United Nations resources, all the assistance necessary to the Special Rapporteur

to fulfil his mandate, in particular by strengthening the human and material resources placed at his disposal;

5. Also requests the Secretary-General to consider ways of publicizing, particularly within the framework of the information activities of the Centre for Human Rights, the work of the Special Rapporteur, as well as recommendations made by him;

6. Expresses its concern at the extensive occurrence of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at persons who exercise the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights and, where applicable, the International Covenant on Civil and Political Rights;

7. Also expresses its concern at the extensive occurrence of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at persons who exercise the intrinsically linked rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association, and the right to take part in the conduct of public affairs as affirmed in the Universal Declaration of Human Rights and, where applicable, the International Covenant on Civil and Political Rights;

8. Further expresses its concern at the extensive occurrence in many parts of the world of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at persons who seek to promote and defend these rights and freedoms;

9. Emphasizes that professionals in the field of information play a major role in the promotion and protection of freedom of opinion and expression and expresses in this regard its deep concern at the numerous reports, received by the Special Rapporteur, of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at such professionals, including journalists, editors, writers and authors, publishers and printers;

10. Underlines that the Working Group on Arbitrary Detention, in its report (E/CN.4/1994/27), noted that 38 of the decisions adopted concerning 147 persons related to detentions regarded as arbitrary, because they were ordered against persons lawfully exercising the right to freedom of opinion and expression;

11. Welcomes the release of persons detained for exercising these rights and freedoms, and encourages further progress in this regard;

12. Appeals to all States to ensure respect and support for the rights of all persons who exercise the right to freedom of opinion and expression, the rights to freedom of thought, conscience and religion, peaceful assembly and

association, and the right to take part in the conduct of public affairs, or who seek to promote and defend these rights and freedoms and, where any persons have been detained, subjected to violence or threats of violence and to harassment, including persecution and intimidation, solely for exercising these rights as laid down in the Universal Declaration of Human Rights and, where applicable, the International Covenant on Civil and Political Rights, to take the appropriate steps to ensure the immediate cessation of these acts and to create conditions under which these acts may be less liable to occur;

13. Also appeals to all States to ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing and social services;

14. Invites once again the Working Group on Enforced or Involuntary Disappearances, the Working Group on Arbitrary Detention and the special rapporteurs of the Commission on Human Rights to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights and, where applicable, the International Covenant on Civil and Political Rights;

15. Urges all Governments to cooperate with and assist the Special Rapporteur in the performance of his tasks and to provide all information requested;

16. Requests the Special Rapporteur to submit to the Commission at its fifty-first session a report covering the activities relating to his mandate;

17. Decides to review this matter at its fifty-first session.

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COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 10 (a)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Australia, Austria, Cameroon, Canada, Chile, Costa Rica, Czech Republic*, Denmark*, Finland, France, Hungary*, Iceland*, Ireland*, Italy, Latvia*, Liechtenstein* Netherlands, New Zealand*, Norway*, Poland, Senegal*, Spain*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay: draft resolution

United Nations Voluntary Fund for Victims of Torture

The Commission on Human Rights,

Recalling article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, which state that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling also General Assembly resolution 36/151 of 16 December 1981, in which the Assembly noted with deep concern that acts of torture took place in various countries, recognized the need to provide assistance to the victims in a purely humanitarian spirit and established the United Nations Voluntary Fund for Victims of Torture, and Assembly resolution 47/109 of 16 December 1992,

Reaffirming the importance of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Bearing in mind its resolution 1993/38 of 5 March 1993,

Welcoming the recommendation contained in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, that providing necessary resources for assistance to victims of torture should be given high priority, inter alia by additional contributions to the United Nations Voluntary Fund for Victims of Torture,

Convinced that the struggle to eliminate torture includes the provision of assistance in a humanitarian spirit to victims of torture and their families,

Taking note of the information provided by the Secretary-General on the activities of the United Nations Voluntary Fund for Victims of Torture (A/48/520, E/CN.4/1994/29 and Add.1),

Taking note also of the actions taken by the Secretary-General, through the staff of the Centre for Human Rights, to assist the Board of Trustees of the Fund in its efforts to increase public awareness of the Fund and its humanitarian work,

Recalling the statement by the Board of Trustees of the Fund on the need to receive contributions from Governments on a regular basis, which, inter alia, would prevent the interruption of programmes in the continuation of which the Fund plays an instrumental role,

Taking account of the fund-raising campaign launched on the recommendation of the Board of Trustees at its eleventh session, held from 22 April to 1 May 1992, to enhance the capacity of the Fund to respond more favourably to the increasing number of requests for assistance to victims of torture,

Taking account also of the increasing number of projects and the repeated requests by the Board of Trustees of the Fund to have adequate staff for the operations of the Fund,

Noting with satisfaction the establishment of an international network of centres for the rehabilitation of torture victims, which plays an important role in providing assistance to victims of torture, and the collaboration of the Fund with these centres,

1. Expresses its appreciation to the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture for the work it has accomplished;

2. Expresses its gratitude and appreciation to those Governments, organizations and individuals that have already contributed to the Fund;

3. Appeals to all Governments, organizations and individuals in a position to do so to respond favourably to requests for contributions to the Fund, if possible, on a regular basis and annually before the meeting of the Board of Trustees;

4. Renews its request to the Secretary-General to transmit to all Governments the appeals of the Commission for contributions to the Fund;

5. Requests the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and technical equipment for the operations of the Fund;

6. Also requests the Secretary-General to continue to keep the Commission informed of the operations of the Fund on an annual basis.

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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Australia, Austria, Costa Rica, Denmark*, Finland, Germany, Hungary, Italy, Netherlands, Norway* and Spain*: draft resolution

Human rights in the administration of justice

The Commission on Human Rights,

Guided by the principles embodied in articles 3, 5, 9, 10 and 11 of the Universal Declaration of Human Rights, as well as the relevant provisions of the International Covenant on Civil and Political Rights and its Optional Protocols,

Guided also by the relevant principles embodied in the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, in the International Convention on the Elimination of All Forms of Racial Discrimination and in the Convention on the Elimination of All Forms of Discrimination against Women,

Reaffirming the opportunity offered to States parties to the International Covenant on Civil and Political Rights, if they so wish, to become parties to its Optional Protocols,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Welcoming the important work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the field of human rights in the administration of justice, in particular regarding the independence of the judiciary, the independence of judges and lawyers, the right to a fair trial, habeas corpus, human rights and states of emergency, the question of arbitrary detention, the human rights of juveniles in detention, the privatization of prisons and the question of the impunity of perpetrators of violations of human rights,

Emphasizing the importance of properly coordinating the activities carried out by the Commission on Crime Prevention and Criminal Justice with the activities under the responsibility of the Commission on Human Rights in this field,

Guided by General Assembly resolution 48/137 of 20 December 1993,

Welcoming the work accomplished in this field by the United Nations within the framework of its programme of work in crime prevention and criminal justice,

Also welcoming resolution 1993/39 of 26 August 1993 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, entitled "Independence of the judiciary",

Recognizing the central role of the administration of justice in the promotion and protection of human rights,

Mindful of the relevant recommendations relating to human rights in the administration of justice contained in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, in particular part I, paragraph 27 and part II, paragraph 69,

Discomforted by the reports of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/1994/31), of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1994/26 and Add.1) and of the Working Group on Arbitrary Detention (E/CN.4/1994/27), all reflecting continuing human rights violations in circumstances clearly indicating pertinent and widespread deficiencies in the systems of administration of justice,

Welcoming the important work of the Commission on Crime Prevention and Criminal Justice in the field of human rights in the administration of justice, as reflected in Economic and Social Council resolution 1993/34 of 27 July 1993, section III,

Noting that many human rights violations in the administration of justice are specifically or primarily directed against women and that the identification and reporting of these violations demand special vigilance,

Recalling its resolution 1993/41 of 5 March 1993,

1. Reaffirms the importance of the implementation of relevant United Nations standards on human rights in the administration of justice;

2. Reiterates once again its call to all Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure more effective implementation of these standards, taking into account the recommendations of the General Assembly in its resolution 43/153 of 8 December 1988 for the development of national strategies for this purpose;

3. Recognizes the important role that non-governmental organizations, including professional associations of lawyers and judges, can play in promoting human rights in the administration of justice;

4. Calls upon Member States to intensify efforts to identify discrimination and other human rights violations in the administration of justice that are specifically or primarily directed against women, and to provide for effective measures to remedy such violations;

5. Welcomes the special attention given to questions relating to the effective protection of human rights in the administration of justice by special rapporteurs and working groups in their recent reports, and calls upon them to continue to provide, wherever appropriate, specific recommendations in this regard, including proposals for concrete measures under the United Nations programme of advisory services and technical assistance in the field of human rights;

6. Stresses the desirability of States being provided, at their request, with continued assistance in the field of administration of justice, in

particular under the United Nations programme of advisory services and technical assistance;

7. Urges the Secretary-General to consider favourably requests for assistance by States in the field of the administration of justice, within the framework of the United Nations programme of advisory services and technical assistance, and to strengthen coordination activities in this field;

8. Strongly recommends, in this context, that the establishment of a comprehensive programme within the system of advisory services and technical assistance be considered in order to help States in the task of building and strengthening adequate national structures which have a direct impact on the overall observance of human rights and the maintenance of the rule of law;

9. Invites the Commission on Crime Prevention and Criminal Justice to pay particular attention to questions relating to the administration of justice and to explore ways and means of strengthening its cooperation with the Commission on Human Rights in this field, with special emphasis on the effective implementation of relevant norms and standards and the provision of technical assistance;

10. Draws the attention of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to the issues raised in the present resolution;

11. Decides to consider the question at its fifty-first session under the agenda item entitled, "Question of the human rights of all persons subjected to any form of detention or imprisonment".

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COMMISSION ON HUMAN RIGHTS
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Agenda item 10 (b)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Australia, Austria, Bulgaria, Cameroon, Canada, Chile, Costa Rica, Czech Republic*, Denmark*, Finland, France, Greece*, Hungary, Ireland*, Italy, Latvia*, Liechtenstein*, Netherlands, New Zealand*, Norway*, Peru, Poland, Portugal*, Russian Federation, Senegal*, Slovakia*, Spain*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay: draft resolution

Status of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

The Commission on Human Rights,

Recalling article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

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* In accordance with rule 69, para. 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling also the Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975,

Recalling further General Assembly resolution 39/46 of 10 December 1984, in which the Assembly adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and called upon all Governments to consider signing and ratifying the Convention as a matter of priority,

Bearing in mind its resolution 1993/37 of 5 March 1993,

Welcoming the statement on freedom from torture included in the Vienna Declaration and Programme of Action, in which the World Conference on Human Rights urged all States to put an immediate end to the practice of torture and eradicate this evil forever,

Recalling the decision of 9 September 1992 of the States parties to the Convention to delete paragraph 7 of article 17 and paragraph 5 of article 18 of the Convention and to add a new paragraph as paragraph 4 of article 18, stating that the members of the Committee established under the Convention shall henceforth receive emoluments from United Nations resources on such terms as the General Assembly will decide,

Welcoming the endorsement of these amendments by the General Assembly in its resolution 47/111,

Mindful of the relevance, for the eradication of torture and other cruel, inhuman or degrading treatment or punishment, of the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex) and of the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment (General Assembly resolution 37/194, annex), as well as of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, annex),

Seriously concerned about the alarming number of cases of torture and other cruel, inhuman or degrading treatment or punishment which continue to be reported from various parts of the world,

Determined to promote full implementation of the prohibition, under international and national law, of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

Considering the important functions of the Committee against Torture under the Convention,

Recalling that in its resolution 1985/33 of 13 March 1985, the Commission decided to appoint a special rapporteur to examine questions relevant to torture and also recalling its subsequent decisions to continue his mandate,

Taking note of the outcome of the second session of the open-ended working group of the Commission on Human Rights on the elaboration of a draft optional protocol to the Convention,

1. Welcomes the report of the Committee against Torture on its ninth and tenth sessions (A/48/44 and Add.1);

2. Takes note of the report of the Secretary-General (E/CN.4/1994/28) on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

3. Encourages the States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

4. Urges States parties that have not yet paid their assessed contributions, and in particular those whose arrears pertain to two or more consecutive financial periods, to fulfil their obligations forthwith;

5. Welcomes the attention that the Committee against Torture has given to the development of an effective system of reporting on the implementation of the Convention by States parties, including its practice of formulating concluding observations after the consideration of such reports, as well as its practice of carrying out inquiries into cases of well-founded allegations of the systematic practice of torture in States parties;

6. Requests the Secretary-General to ensure the provision of appropriate staff and facilities for the effective performance of the functions of the Committee against Torture;

7. Urges all States to become parties to the Convention as a matter of priority;

8. Invites all States ratifying or acceding to the Convention and those States parties that have not yet done so to make the declaration provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20,

9. Requests the Secretary-General to continue to submit to the Commission annual reports on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

10. Decides to consider the report of the Secretary-General at its fifty-first session under the agenda sub-item "Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment".